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Letter dated 17 May 2016 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I would be grateful if you could transmit the present letter and its annexes to the members of the Security Council.

(*Signed*) Carmel **Agius**
President

16-07979 (E) 270516

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Annex I

[Original: English and French]

Assessment and report of Judge Carmel Agius, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004) covering the period from 17 November 2015 to 17 May 2016

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1. The present report is submitted pursuant to Security Council resolution 1534 (2004), adopted on 26 March 2004, in which the Security Council, in paragraph 6 of the resolution, requested the International Criminal Tribunal for the Former Yugoslavia to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the completion strategy of the Tribunal, explaining what measures have been taken to implement the completion strategy.[1]

2. The report also includes a summary of the measures that the Tribunal continues to undertake to complete the smooth transition to the International Residual Mechanism for Criminal Tribunals.

I. Introduction

3. The Tribunal made significant progress in completing its work during the reporting period, delivering judgments in the appeal case of *Prosecutor v. Jovica Stanišić and Franko Simatović* ("*Stanišić and Simatović* case") and both the trial cases of *Prosecutor v. Radovan Karadžić* ("*Karadžić* case") and *Prosecutor v. Vojislav Šešelj* ("*Šešelj* case"). In addition, on 14 December 2015, the judges of the Appeals Chamber delivered the final judgment in the largest appeal case ever adjudicated by the International Criminal Tribunal for Rwanda, namely the *Nyiramasuhuko et al.* case ("*Butare* case").

4. At the close of the reporting period, two trial cases, involving two individuals, and two appeal cases, involving eight individuals, were ongoing. Judgment in one of the appeal cases is expected to be rendered by the end of June 2016.

5. The Tribunal has to date concluded proceedings against 151 of the 161 individuals it has indicted, and has concluded contempt proceedings against 25 persons. Following the arrests of Ratko Mladić and Goran Hadžić in 2011, there are no outstanding Tribunal fugitives charged with serious violations of international humanitarian law. In a pending contempt case, however, there are currently three Tribunal indictees whose arrest warrants are yet to be executed: Petar Jojić, Jovo Ostojić and Vjerica Radeta. Further details are provided below.

6. The Tribunal continues to implement its completion strategy and to make every effort to meet its targets and the forecast judgment delivery dates. While limited delays caused slippage in two trials, as previously reported, judgments in both cases were delivered in March 2016 in line with the dates forecast in the previous report (S/2015/874). These delays were the result of a number of factors, most prominently staff attrition and health problems of the accused, as well as

[1] The present report should be read in conjunction with the previous 24 reports submitted pursuant to Security Council Resolution 1534 (2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007; S/2007/663 of 12 November 2007; S/2008/326 of 14 May 2008; S/2008/729 of 24 November 2008; S/2009/252 of 18 May 2009; S/2009/589 of 13 November 2009; S/2010/270 of 1 June 2010; S/2010/588 of 19 November 2010; S/2011/316 of 18 May 2011; S/2011/716 of 16 November 2011; S/2012/354 of 23 May 2012; S/2012/847 of 19 November 2012; S/2013/308 of 23 May 2013; S/2013/678 of 18 November 2013; S/2014/351 of 16 May 2014; S/2014/827 of 19 November 2014; S/2015/342 of 15 May 2015; and S/2015/874 of 16 November 2015. Except where otherwise noted, the report contains data accurate as at 17 May 2016.

certain other case-specific factors. In addition, a further trial case has been stayed indefinitely owing to the health condition of the accused. However, the Tribunal assures the Security Council that its judicial work will be completed by the end of 2017. In the meantime, the judges are doing their utmost to identify measures to expedite the pending cases.

7. The Tribunal continues to downsize, while ensuring that remaining trials and appeals are fully supported. Following the delivery of appeal judgments in the *Stanišić and Simatović* case and *Butare* case, the terms of office of three judges of the Appeals Chamber came to an end. A further 6 judges departed the Tribunal after the conclusion of the *Karadžić* case and *Šešelj* case, leaving a total of 11 judges. After June 2016, only 10 judges will remain. In line with existing downsizing plans, staff members assigned to these cases either departed the Tribunal following the delivery of judgment or were reassigned to other cases.

8. The Registry of the Tribunal continues to provide full support to the Tribunal's judicial activities and to ensure the smooth transition of residual functions to the Mechanism in compliance with Security Council resolution 1966 (2010), including through the ongoing review and preparation of records for transfer to the Mechanism.

II. Implementation of the completion strategy

9. The Tribunal is firmly committed to ensuring its efficient and orderly closure by the end of 2017. Furthermore, it remains committed to concluding all judicial work expeditiously, while ensuring that trials and appeals are conducted in a manner consistent with fundamental principles of due process and fairness. To that end, the Tribunal continues to implement measures including: providing teams with additional staff resources as needed; reassigning staff from concluded cases to ongoing cases; maintaining rosters of qualified applicants to ensure that departing staff are replaced promptly; requesting flexibility in applying United Nations staff regulations that could lead to delays in staff recruitment and retention; and offering promotions as a means of boosting staff members' morale and discouraging attrition. In addition, the Trial and Appeals Schedule Working Group of the Tribunal, chaired by the Vice-President of the Tribunal, meets regularly to monitor and report on the progress of trials and appeals, to ensure that cases are kept on track, and to identify potential causes of delay and measures to alleviate such delay.

10. In accordance with Security Council resolution 2256 (2015), during the reporting period the Tribunal was subject to an evaluation of its methods and work by the Office of Internal Oversight Services (OIOS). The Tribunal granted its fullest cooperation and, on 11 May 2016, submitted its formal response to the report prepared by OIOS. The Tribunal will report on the implementation of any OIOS recommendations in its next six-monthly assessment.

11. As previously reported, the most critical challenge faced by the Tribunal in completing its work is staff attrition. This problem has continued unabated during the current reporting period, with experienced staff leaving to take up more secure employment opportunities. While new staff members are recruited as quickly as possible, they inevitably require significant amounts of time to familiarize themselves with the voluminous case records and the working methods of the Tribunal. The situation is expected to become acute as the Tribunal approaches the

end of its mandate. Indeed, the loss of experienced staff members, who have institutional and case-specific knowledge, will be particularly damaging in the final year of the Tribunal and could possibly jeopardize its ability to complete all judicial work on time.

12. The Tribunal has repeatedly warned about the potential impact of staff attrition in previous completion strategy reports. It has also previously reported on its proposal to address this challenge through the adoption of an International Civil Service Commission-endorsed end-of-service grant, which would provide a payment to staff members who remained at the Tribunal until their positions were eventually downsized.[2] The grant was planned after discussions with the Tribunal's Staff Union and would have been particularly effective in providing mid-and senior-level Chambers staff with the financial stability and security they need to remain at the Tribunal until the completion of their cases. While the Advisory Committee on Administrative and Budgetary Questions accepted the business case for an end-of-service grant, the idea was unfortunately rejected by the Fifth Committee of the General Assembly.

13. The Tribunal hopes that now, given that the institution is in its final stages and that staff numbers will be minimal, this suggestion might be reconsidered. The Tribunal strongly believes that, unless it is assisted in introducing financial incentives for staff members to stay until the end of their contracts, the continued departure of staff — particularly at the middle and senior levels — will have a significant detrimental impact on the Tribunal's ability to complete its remaining cases on schedule.

14. The Tribunal acknowledges with gratitude the generous offer of Chambers support received from China. Notwithstanding this valuable assistance, the problem of staff attrition will remain acute unless a comprehensive solution is found. The Tribunal therefore encourages other States to also lend their support in any way possible.

15. To provide a more thorough overview of the challenges faced by the Tribunal in individual cases and of the Tribunal's progress in completing its work, summaries of its ongoing trials and appeals, together with the recently completed cases, are provided below.

A. Trial proceedings

16. In the *Karadžić* case, the accused was charged with 11 counts of genocide, crimes against humanity, and violations of the laws or customs of war. On 24 March 2016, the Trial Chamber issued the trial judgment. The Trial Chamber found the accused not guilty of one count of genocide pertaining to seven municipalities in Bosnia and Herzegovina. The Trial Chamber found the accused guilty of the remaining 10 counts, namely genocide in Srebrenica, persecution, extermination, murder, deportation, and forcible transfer, all crimes against humanity, as well as murder, terror, unlawful attacks on civilians, and hostage taking, all violations of the

[2] See, for example, S/2011/716 of 16 November 2011, pp. 12-13; S/2012/354 of 23 May 2012, p. 11; S/2012/847 of 19 November 2012, p. 10; S/2013/308 of 23 May 2013, p. 11; and S/2013/678 of 18 November 2013, pp. 7-8.

laws or customs of war. The Trial Chamber sentenced the accused to a single sentence of 40 years of imprisonment.

17. In the *Šešelj* case, the trial judgment was rendered on 31 March 2016. The accused had faced nine counts: three for crimes against humanity (persecution, deportation and inhumane acts of forcible transfer) and six for war crimes (murder, torture and cruel treatment, wanton destruction, destruction or wilful damage done to institutions dedicated to religion or education, plunder of public or private property). He was accused of having directly committed, incited, aided and abetted those crimes committed by Serbian forces during the period from August 1991 until September 1993, and to have been part of their commission through his participation in a joint criminal enterprise. Vojislav Šešelj was acquitted of all charges, with a majority decision on eight counts and a unanimous decision on one count.

18. In the case of *Prosecutor v. Goran Hadžić*, the accused is charged with 14 counts of crimes against humanity and violations of the laws or customs of war. It has previously been reported that the trial judgment is expected in October 2016, 10 months later than originally anticipated.

19. It has also been reported that the defence case commenced on 3 July 2014, but that the trial has been adjourned since 20 October 2014 owing to Mr. Hadžić's grave health condition. Further medical examinations of Mr. Hadžić were conducted in May, June and July 2015, and hearings were held with medical experts in July and August 2015, to determine whether the accused was fit to stand trial. Following these hearings, the parties made further submissions on Mr. Hadžić's fitness to stand trial and whether the trial should continue. On 26 October 2015, the Trial Chamber found, by majority decision, that the accused was fit to stand trial but decided to stay the proceedings for an initial, renewable period of three months and to continue his provisional release. The Prosecution appealed that decision and, on 4 March 2016, the Appeals Chamber granted the appeal in part. The Appeals Chamber invited, inter alia, the Trial Chamber to reassess the accused's fitness to stand trial on the basis of the available and updated medical records. Throughout this entire period, the Trial Chamber had been receiving regular updates on Mr. Hadžić's medical condition, and continues to do so. On 24 March 2016 (with a public redacted version filed on 5 April 2016), the Trial Chamber issued its Decision on Remand on the Continuation of Proceedings, in which it found, by majority decision, that the accused was unfit to stand trial and stayed the proceedings indefinitely. The decision of 24 March 2016 has not been appealed by either party.

20. In the light of Mr. Hadžić's condition, which appears to be significantly deteriorating, and the decision to stay the proceedings indefinitely, it is more likely than not that the accused will not be fit to stand trial again. The Trial Chamber has indicated that it cannot give any precise assessment on the date of the completion of the proceedings in this case. The President of the Tribunal is monitoring the situation, and arrangements have been made for one of the judges of the Trial Chamber to take up his duties as a judge of the International Criminal Court solely under its remuneration scheme, while remaining available for any residual matters in the *Hadžić* case. Given the circumstances, the President is also actively involved in reviewing the status quo as regards the other two judges on the case.

21. In the case of *Prosecutor v. Ratko Mladić* ("*Mladić* case"), the accused is charged with 11 counts of genocide, crimes against humanity, and violations of the

laws or customs of war. As indicated in previous reports, the trial judgment is expected in November 2017. Additional staff resources have been assigned in order to ensure that this deadline can be met. However, as the Tribunal nears the end of its mandate, highly qualified staff members continue to leave the Tribunal for more secure employment elsewhere. It will thus be an increasing challenge to maintain continuity of core staff, which is of utmost importance in a case of such size and complexity.

22. In the contempt case of *Petar Jojić et al.*, the accused are charged with four counts of contempt of court in relation to alleged witness intimidation in the *Šešelj* case. The initial order in lieu of indictment was issued on 30 October 2012 and on the same day an amicus curiae prosecutor was directed to prosecute the case. Arrest warrants have been pending since 19 January 2015. The proceedings in this case were confidential until 1 December 2015, which is why the case has not been included in previous reports. It is not possible to estimate the exact length of the case until Serbia has executed the arrest warrants and the pretrial phase can start.[3] In this respect, the Tribunal calls upon Serbia to fulfil its duties under article 29 of the statute of the Tribunal. However, if the arrest warrants are not executed soon, it may become necessary for the Security Council to urgently discuss a solution that would allow this case to be finalized before November 2017.

B. Appeal proceedings

23. The appeal judgment in the *Stanišić and Simatović* case was pronounced on 15 December 2015. The Appeals Chamber, by majority decision, granted certain grounds of appeal lodged by the Prosecution and ordered that Jovica Stanišić and Franko Simatović be retried on all counts of the indictment. The retrial will be conducted by the Mechanism.

24. In addition, as noted above, on 14 December 2015, the Appeals Chamber of the Tribunal, on which the judges of the Tribunal also sit, delivered its judgment in the *Butare* case, being the Tribunal's final and largest-ever appeal case.

25. In the case of *Prosecutor v. Jadranko Prlić et al.*, the projected time frame for delivery of the appeal judgment remains November 2017, as indicated in previous reports. This is the most voluminous appellate case in the history of the Tribunal, with seven appeals (one by each of the six defendants, as well as the prosecution), 172 grounds of appeal, and 12,196 pages of appellate submissions dealing with a trial judgment of more than 2,000 pages. It will be a challenge to meet the projected time frame with no slippage whatsoever, yet the Appeals Chamber remains committed to completing the case by November 2017. While the deployment of additional experienced staff on a staggered basis with the completion of other cases had to be postponed owing to delays in those cases, the drafting of the preparatory document analysing the parties' appellate submissions is on track. Measures were taken to increase the number of staff assigned to this case and to have a core leadership of the team that includes staff members with extensive experience in working on voluminous appellate cases. However, as with the *Mladić* case, it will become increasingly difficult to maintain the continuity of core staff as the

[3] The Tribunal notes, however, that contempt cases take considerably less time than other trials, with an average length of approximately 208.5 days between the date of initial appearance and date of trial judgment.

Tribunal's mandate draws to a close. The loss of experienced staff in such a complex and voluminous case will present significant challenges.

26. In the case of *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, the appeal hearing was held on 16 December 2015. The projected time frame for the delivery of the appeal judgment remains unchanged and the appeal judgment is expected at the end of June 2016.

III. Judicial support and administration activities

A. Support for core judicial activities

27. The key priority of the Registry during the reporting period continued to be providing full support to the Tribunal's judicial activities, thereby assisting the Tribunal in achieving its completion strategy targets.

28. During the reporting period, the Registry processed and disseminated more than 764 internal and external filings, amounting to 13,778 pages. In addition, the Registry drafted and filed approximately 50 legal submissions relating to the ongoing trials and appeals of the Tribunal. The Registry further translated 13,560 pages and provided 339 conference interpreter days. The Registry also facilitated and serviced 39 court days, in support of the ongoing trials and appeals.

29. The Registry's Victims and Witnesses Section provided assistance to 17 witnesses and support persons during the reporting period, including to witnesses testifying in ongoing trials before the Tribunal. This included the provision of logistical and psychosocial support prior to, during and after testimony in The Hague and other locations, catering to diverse needs relating to age, medical condition, psychosocial wellbeing, and physical security. The Section complied with an increasing number of judicial orders to consult protected witnesses in connection with requests for the rescission, variation, or augmentation of their protective measures. The function of protecting witnesses in completed cases has been transferred to the Mechanism since 1 July 2013.

30. The Victims and Witnesses Section is working steadily towards finalizing the pilot study, supported by the University of North Texas and financed in part by voluntary contributions, on the long-term impact that testifying before the Tribunal has on witnesses. During the reporting period, data collected from 300 witness interviews were analysed. The preliminary analysis of the findings of the study indicate that witnesses perceive giving testimony generally as a positive experience. The final report of the pilot study remains on schedule for publication in June 2016.

31. During the reporting period, the Office for Legal Aid and Defence Matters continued to administer the Tribunal's legal aid system, overseeing approximately 70 defence team members, who work with both represented and self-represented accused, safeguarding the defendants' rights to legal representation and adequate resources for their defence. The Office also administered the appointment and remuneration of amici curiae.

32. The Registry also continued to operate the United Nations Detention Unit. The Detention Unit is an autonomous remand and detention centre located within a Dutch penitentiary in Scheveningen, The Hague, and runs a programme of detention

and remand that is in line with or exceeds international humanitarian standards. In addition to Mechanism detainees, the Unit held a total number of nine Tribunal detainees during the reporting period; at the end of the reporting period, the number of Tribunal detainees at the Unit was eight. During the reporting period, one person was sent to the state of enforcement, while two were released after completing their sentences. The Detention Unit further reduced in capacity to a single prison wing on 1 May 2016.

B. Administration activities

33. The Division of Administration continued to take the lead in coordinating responses to, and compliance with, the reports and recommendations of oversight bodies (United Nations Board of Auditors and OIOS). The Division continued with the full implementation of the recently adopted Umoja enterprise resource planning software. The Tribunal vacated its Administration Building in December 2015 and consequently all local operations have now been consolidated into one building. Furthermore, the Liquidation Task Force continued to work on planning for the timely end of Tribunal operations and the appropriate handover of residual activities to the Mechanism.

C. Downsizing

34. The Tribunal remains committed to completing its remaining cases and meeting the projected date for its closure in 2017. The comparative review process for post abolishments for the biennium 2016-2017 was completed in 2015 and faced no challenges through the internal administration of justice system. At the beginning of 2016, a total of 379 posts remained. The projection for January 2017 is 272 remaining posts, all of which will be abolished over the course of the biennium.

35. The Tribunal's Career Transition Office supports staff in all aspects of career management and transition during the period of downsizing and closure of the Tribunal by offering vocational training courses, career consultation services and career-related workshops.

IV. Support for the International Residual Mechanism for Criminal Tribunals

A. Overview of Mechanism-related activities

36. During the reporting period, the Registry continued to provide the Mechanism, and its Hague branch in particular, with judicial support services, including the maintenance of judicial records, legal aid, language services, detention services and witness support services. This support included assisting the Mechanism in finalizing its regulatory framework so as to reflect lessons learned and best practices from both the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. Furthermore, all sections of the Registry have continued to support the Mechanism, as needed, with regard to a variety of operations, including recruitment, communications, information technology support, and overall Registry management.

B. Administrative support provided to the Mechanism

37. During the previous biennium, the Mechanism was provided with administrative support services by the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, assisted by a limited number of administrative staff funded by the Mechanism. Since the Tribunal for Rwanda closed at the end of 2015, the Tribunal for the Former Yugoslavia continues to ensure that both branches of the Mechanism are provided with effective administrative services throughout the biennium 2016-2017.

38. In addition to the support provided by the Tribunal to the Mechanism in the areas of human resources, general services, procurement, finance, budget, and information technology, the Tribunal continues to contribute significantly to the definition of requirements and procurement of goods and services for the new Mechanism facility in Arusha, which is expected to be completed in 2016. The Tribunal is assisting Mechanism colleagues in Arusha with the necessary procurement and logistical activities to ensure a smooth transition from functions supported by the International Criminal Tribunal for Rwanda to self-sufficiency in areas such as general services. Additionally, the International Tribunal for the Former Yugoslavia continues to provide extensive support to the Mechanism during the implementation of Umoja with a view to ensuring its smooth operation in the coming reporting period.

C. Legal aid

39. Following the transfer of functions to the Mechanism, the Office for Legal Aid and Defence Matters provides support to the Mechanism Registry on matters pertaining to the provision of legal aid to (partially) indigent accused and persons detained under the authority of the Mechanism. During the reporting period, this included working with the Arusha Branch of the Mechanism Registry to develop defence remuneration policies, including with regard to matters pertaining to post-conviction representation.

D. Preparation of records for migration to the Mechanism

40. The Tribunal's Records and Archives Working Group continues to coordinate and oversee the implementation of an overall project plan for the transfer of Tribunal records (both physical and digital) to the Mechanism. The Working Group has prepared a comprehensive risk assessment for the project and the Mechanism Archives and Records Section has provided briefings for Tribunal managers on their responsibilities for addressing the risks identified.

41. Tribunal offices continue to identify and appraise their records and prepare appropriate records for transfer to the Mechanism under the direction and with the support of the Mechanism Archives and Records Section. Disposition plans have been finalized for the Field Offices in Belgrade and Sarajevo and 36 linear metres of records are being transferred to the Section in April 2016. The Tribunal has now transferred the physical records of all its completed cases to the Mechanism. In total, the Tribunal has transferred more than 30 per cent of its anticipated volume of physical archives to the Mechanism. As part of the ongoing review and preparation

of records for transfer to the Section, Tribunal offices destroyed 48 linear metres of redundant records and/or records whose retention periods had expired.

E. Premises

42. Security Council resolution 1966 (2010) identifies the seats of the branches of the Mechanism as The Hague and Arusha. To maximize cost savings and efficiency, The Hague branch of the Mechanism is co-located with the Tribunal until its closure.

V. Communications and outreach

43. The redesigned website of the Tribunal continued to serve a wide range of audiences, with more than 1.2 million page views during the reporting period. The Tribunal's presence on the social media platforms Facebook, Twitter and YouTube continued to expand, with almost 400,000 views during the reporting period. More than 3,500 individuals, predominantly students and legal professionals, visited the Tribunal and heard presentations about its work.

44. The Outreach Programme finalized and screened two feature-length documentaries in the former Yugoslavia: *Crimes before the ICTY: Višegrad* and *Dubrovnik and Crimes against Cultural Heritage*. In addition, the anniversary publication "15 years of Outreach at the ICTY" was produced and published. The fourth cycle of the Youth Outreach Project, generously supported by the Government of Finland, continued with lectures and presentations in the former Yugoslavia. The Tribunal's Liaison Offices assisted Outreach alongside other Registry functions in Bosnia and Herzegovina and in Serbia. The European Union generously agreed to provide financial support to the Outreach Programme for 2016 and as needed until the Tribunal's closure.

VI. Legacy and capacity-building

45. Significant progress on the establishment of information and documentation centres to provide public access to the Tribunal's public records and archives, in accordance with paragraph 15 of Security Council resolution 1966 (2010), has been made in Bosnia and Herzegovina. The country's Government supports the establishment of two information centres and negotiations with the City of Sarajevo and the Srebrenica-Potočari Memorial Centre are at an advanced stage. The Tribunal calls upon all States in the region to support such initiatives.

46. The Mechanism Archives and Records Section continues to lead the work on the digitization of the audiovisual recordings of the Tribunal's judicial proceedings. In March 2016 all available public access recordings from the *Karadžić* case, around 1,200 in total, were digitized and made available online to the public.

VII. Conclusion

47. Following the delivery of two appeal judgments (the two Tribunals) and two trial judgments during the reporting period, the Tribunal has now completed almost all of its cases. By the end of June 2016, only two trials and one appeal case will remain pending. The Tribunal's achievements and continued progress are the result of the hard work and dedication of its judges, staff members, prosecutors and defence lawyers. They are also a reflection of the vital support and assistance provided by the United Nations and other stakeholders, and a testament to the international community's commitment to ending impunity. The Tribunal expresses its deep appreciation to all those who have contributed to and supported its work.

48. The Tribunal is committed to closing its doors by the end of 2017 and is taking all steps within its powers to ensure that the remaining cases are concluded in line with previous forecasts. However, as frankly reported above, the Tribunal continues to face significant challenges in the form of staff attrition, in particular, and its inability to offer an end-of-service grant has significantly exacerbated this problem. On its part, the Tribunal will continue to make every effort to complete its work as expeditiously as possible. However, at this significant time in the Tribunal's history, the continued support and assistance of the Security Council, its Informal Working Group on International Tribunals, the Office of Legal Affairs and the wider United Nations membership will be more crucial than ever to the successful conclusion of the Tribunal's mandate.

Annex II

[Original: English and French]

Report of Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, provided to the Security Council under paragraph 6 of Security Council resolution 1534 (2004)

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I. Overview

1. The Prosecutor submits this twenty-fifth completion strategy report pursuant to Security Council resolution 1534 (2004), covering developments between 16 November 2015 and 15 May 2016.

2. During the reporting period, trial judgments were rendered in two cases, *Karadžić* and *Šešelj*, and an appeal judgment was issued in the *Stanišić and Simatović* case. Trial proceedings are ongoing in only one case (*Mladić*) and appeals proceedings are ongoing in two cases (*Stanišić and Župljanin* and *Prlić et al.*). The Trial Chamber in the *Hadžić* case has stayed the proceedings indefinitely. The Office of the Prosecutor continues to remain focused on ensuring that the *Mladić*, *Stanišić and Župljanin* and *Prlić et al.* cases proceed expeditiously.

3. During the reporting period, cooperation between the Office of the Prosecutor and authorities in Bosnia and Herzegovina, Serbia and Croatia continued. However, as at the end of the reporting period, Serbia had not yet fully cooperated with the Tribunal owing to its continued failure to transfer three indictees to the Tribunal's custody. Arrest warrants for these three indictees were first transmitted to Serbia in January 2015, and in October 2015, the President of the Tribunal reported Serbia to the Security Council for failure to comply with its obligations under the statute.

4. As noted in its seven previous reports, the Office of the Prosecutor is concerned with the pace and effectiveness of war crimes prosecutions by national authorities in the former Yugoslavia. The Office welcomes the progress made by the Prosecutor's Office of Bosnia and Herzegovina in resolving outstanding Category II cases and issuing important indictments, as well as the continuing work of other national judiciaries. Nonetheless, legitimate expectations for further significant progress in national war crimes prosecutions in the region have not yet been met. Of particular concern during the reporting period has been an apparent regression in regional cooperation between national prosecution offices in war crimes cases. It is also becoming clearer that the accountability process is hindered by the absence of a more comprehensive and complementary framework for war crimes justice at the regional level. The Office of the Prosecutor of the Tribunal remains of the view that these challenges can be successfully addressed and overcome if there is national ownership of post-conflict justice, appropriately supported by international assistance. The Office of the Prosecutor will continue to engage directly with national authorities and encourage full ownership of and responsibility for the accountability process.

5. The reporting period marked the beginning of a significant new effort to further streamline operations and reduce costs by effectively integrating the staff and resources of the Office of the Prosecutor of the Tribunal with those of the Office of the Prosecutor of the Mechanism for International Criminal Tribunals. Since 1 March 2016, the two Offices have been implementing a "one office" approach that will allow staff and resources to be flexibly deployed across both institutions in double-hatting arrangements as and when needed based on operational requirements, in accordance with the Security Council's directions set forth in resolution 1966 (2010). The Office of the Prosecutor of the Tribunal will continue its downsizing in line with the completion of trials and appeals as foreseen in its approved budget. In addition, it is expected that flexible management of all prosecution staff and resources during the period of coexistence between the

Tribunal and Mechanism will yield some overall cost savings while also significantly improving the capacity of both Offices to respond to any new developments within existing resources. The "one office" approach is also providing an important avenue for ameliorating the still-pressing challenge of severe staff attrition within the Offices.

II. The completion of trials and appeals

A. Overview of ongoing challenges

6. During the reporting period, the trial judgment in *Karadžić* and appeal judgment in *Stanišić and Simatović* were delivered, while the trial judgment in the *Šešelj* case was also issued after some further delay. These results significantly advance the completion of the work of the Tribunal, and should help to address concerns about delays raised in previous reporting periods.

7. While various litigation in pending cases will continue until judgments are rendered, the Office of the Prosecutor is nearing the completion of its primary case-related obligations, namely the presentation of evidence and closing submissions in the *Mladić* case (anticipated fall 2016) and the presentation of oral appeal arguments in the *Prlić et al.* case (anticipated spring 2017). The Office has met and will continue to meet all deadlines imposed to ensure that its part in these cases is successfully completed.

8. The primary challenge in this final period of the work of the Tribunal will be the expeditious rendering of judgments.

B. Update on the progress of trials

1. *Karadžić*

9. On 24 March 2016, the Trial Chamber unanimously convicted the accused for genocide, crimes against humanity and war crimes, and sentenced him to a term of imprisonment of 40 years. The Office of the Prosecutor notes that the Trial Chamber accepted the extensive evidence proving Karadžić's individual criminal responsibility for a broad range of crimes for which he was charged, including crimes committed through municipalities in Bosnia and Herzegovina, during the siege of Sarajevo, the Srebrenica genocide and in relation to taking United Nations personnel hostage.

10. The Office of the Prosecutor extends its appreciation to the international community, particularly the Security Council and United Nations Secretaries-General, for the extensive support provided to the Office, which enabled Karadžić to finally be arrested and brought to justice. The successful completion of this case is a tribute to the commitment of the Council, the United Nations and its Member States to international justice, and clearly demonstrates that justice for the most horrific international crimes is possible.

2. *Šešelj*

11. On 31 March 2016, the Trial Chamber, by majority, acquitted the accused on all counts of the indictment. The Office of the Prosecutor fully understands the

disappointment felt by many victims and communities regarding this verdict. The Office of the Prosecutor of the Mechanism has filed its notice of appeal against the trial judgment.

3. *Mladić*

12. The Prosecution closed its case on 24 February 2014. The *Mladić* defence began the presentation of its evidence on 19 May 2014. The *Mladić* defence has been making extensive use of written evidence pursuant to rule 92ter, which reduces the time taken for oral testimony overall, but still involves courtroom time for the prosecution and the Trial Chamber to ask questions in person of the defence witnesses. The Office has endeavoured to conduct cross-examinations as efficiently as possible.

13. During the reporting period, the trial was adjourned by the Trial Chamber from 1 March to 18 April 2016 to allow the defence a final opportunity to obtain the presence of additional witnesses it proposed to examine. However, the Trial Chamber reminded the parties of its earlier guidance that preparations for the final trial briefs should have been ongoing during the adjournment, and announced that the deadline for submission of final briefs would be 1 September 2016. Because these defence witness delays have been incorporated into the schedule for the final trial brief, there should be minimal impact on the timely completion of the trial. The Office of the Prosecutor will continue to undertake all efforts to support the expeditious completion of this case.

4. *Hadžić*

14. The Trial Chamber adjourned trial proceedings in the *Hadžić* case on 20 October 2014 owing to the ill health of the defendant, approximately midway through the presentation of the defence case. Throughout the past three reporting periods, the Office of the Prosecutor has continued to pursue all reasonable options for resuming and completing the trial, advocating the expeditious completion of the trial in a manner consistent with the accused's right to a fair trial.

15. On 4 March 2016, the Appeals Chamber partially granted the Prosecution's appeal, filed on 1 December 2015, against the Trial Chamber's decision of 26 October 2015 to suspend the proceedings for a period of three months. The Appeals Chamber invited the Trial Chamber to reassess whether the accused was fit to stand trial and the reasonably available modalities to continue the trial. On 24 March 2016, the Trial Chamber found the accused unfit to stand trial and stayed the trial indefinitely. With this most recent decision by the Trial Chamber, the Office of the Prosecutor has effectively exhausted all reasonable options available to complete this case.

16. The Office of the Prosecutor regrets that this case will not result in a verdict on the charges against the accused, particularly in the light of the many efforts the prosecution undertook to streamline its evidence presentation and to propose other options for completing the case even after the accused's health worsened.

C. Update on the progress of appeals

17. On 15 December 2015, the Appeals Chamber partially granted the Office of the Prosecutor's appeal in the *Stanišić and Simatović* case, revoked the judgment of the Trial Chamber judgment and ordered a retrial. Pursuant to the statute and transitional arrangements of the Mechanism, this retrial is being conducted by the Mechanism. The Office of the Prosecutor is satisfied that the Appeals Chamber agreed with our submissions that the Trial Chamber failed to adjudicate and provide a reasoned opinion on essential elements of the prosecution's case at trial and erroneously applied the notion of "specific direction" to acquit the accused of aiding and abetting the crimes charged.

18. The Appeals Division of Office of the Prosecutor continues to focus on expeditiously and effectively completing the two final appeal proceedings before the Tribunal (*Stanišić and Župljanin* and *Prlić et al.*). In addition, the Appeals Division continues to assist trial teams with briefing major legal issues, drafting final trial briefs and preparing closing submissions, including in particular with respect to the *Mladić* case. Finally, during the reporting period the Appeals Division, along with other Office staff members, supported the Office of the Prosecutor of the Mechanism in preparing for appeals proceedings in the *Karadžić* and *Šešelj* cases, consistent with the "one office" approach and to ensure that the Office of the Prosecutor of the Mechanism benefited from the case-specific knowledge and expertise of the Appeals Division.

III. State cooperation with the Office of the Prosecutor of the Tribunal

19. The Office of the Prosecutor continues to rely on the full cooperation of States to successfully complete its mandate, as set out in article 29 of the statute of the International Tribunal. The Prosecutor met with officials in Zagreb from 28 to 29 April 2016, and in Sarajevo from 12 to 13 May 2016. Throughout the reporting period, the Office has maintained a direct dialogue with governmental and judicial authorities from Serbia, Croatia and Bosnia and Herzegovina. The Office of the Prosecutor's field offices in Sarajevo and Belgrade continued to facilitate the work of the Office in Bosnia and Herzegovina and Serbia, respectively.

A. Cooperation between the States of the former Yugoslavia and the Office of the Prosecutor

20. The Office of the Prosecutor continued to have appropriate access to documents, archives and witnesses in Bosnia and Herzegovina, Croatia and Serbia during the reporting period.

21. However, the Office is very concerned that, as of the end of the reporting period, Serbia has failed to cooperate with the Tribunal and execute the Tribunal's arrest warrants for three Serbian indictees. Serbia has been obligated to enforce these arrest warrants since January 2015. It has had the opportunity to fully participate in proceedings before the Trial Chamber and provide explanations for its inaction. However, after hearing from Serbia, the Trial Chamber referred Serbia's failure to cooperate to the President of the Tribunal, who in October 2015 then

reported Serbia to the Security Council. The Trial Chamber also ordered Serbia to provide regular reports on its efforts to execute the arrest warrants. The Office of the Prosecutor calls upon Serbian authorities to promptly arrest the three indictees and surrender them to the Tribunal's custody.

B. Cooperation between other States and organizations and the Office of the Prosecutor

22. Cooperation and support from States outside the former Yugoslavia, as well as from international organizations, remains integral to the successful completion of cases at the Tribunal. Continued assistance is needed to access documents, information and witnesses, as well as in matters related to witness protection, including witness relocation. The Office of the Prosecutor again acknowledges the support it received during the reporting period from States Members of the United Nations and international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe and the Council of Europe.

23. The international community continues to play an important role in providing incentives for States in the former Yugoslavia to cooperate with the Tribunal. The European Union policy of conditionality, linking membership progress to full cooperation with the Tribunal, remains an effective tool for ensuring continued cooperation with the Tribunal and consolidating the rule of law in the former Yugoslavia. Assistance is also increasingly needed to support the prosecution of war crimes cases in the former Yugoslavia.

IV. Transition from the International Tribunal for the Former Yugoslavia to national war crimes prosecutions

24. As the Tribunal nears the completion of its mandate, the Office of the Prosecutor remains committed to promoting effective war crimes prosecutions in the former Yugoslavia through ongoing dialogue with counterparts and efforts to build capacity in the national justice sectors. The effective prosecution of war crimes committed during the conflicts in the former Yugoslavia is fundamental to build and sustain the rule of law, as well as for truth-seeking and reconciliation. With the completion of the Tribunal's mandate approaching, accountability for these crimes now depends on national prosecution offices and judiciaries. Over the past few years, the Office of the Prosecutor has redoubled its efforts, within existing resources, to monitor, support and advise national judicial authorities prosecuting war crimes cases.

25. Overall, while the processing of war crimes cases in national judiciaries in the region continued during the reporting period, the picture remains mixed and current trends do not unambiguously point in a positive direction. The pace of national prosecutions is still not yet commensurate with the backlog of cases remaining to be completed, and sufficient progress has not yet been made in investigating and prosecuting complex cases involving senior- and mid-level officials. Positive developments, such as the progress made by the Prosecutor's Office of Bosnia and Herzegovina in resolving pending Category II cases, have demonstrated that

national judiciaries are capable of achieving high-standard results. However, legitimate expectations for broader progress have not yet been met.

26. The Office of the Prosecutor believes that more can and should be done. In its twenty-third completion strategy report (S/2015/342), the Office identified the need for national prosecution offices to adopt and implement strategic approaches to the investigation and prosecution of war crimes under their jurisdiction. There have been some positive developments in this regard; however, more concerted effort is needed.

27. In addition, it is increasingly clear that further progress in national accountability efforts would benefit from a more strategic and cooperative approach at the regional level. The States of the former Yugoslavia have repeatedly expressed their commitments to the fair and impartial adjudication of war crimes without regard to the ethnicity, nationality or official status of the victims or perpetrators. To fully realize these commitments, it is necessary to approach accountability as a regional issue. Political barriers to stronger regional cooperation are a challenge to overcome, not an excuse for impunity.

A. Challenges in establishing accountability for war crimes in the former Yugoslavia

1. Regional cooperation

28. Regional cooperation is essential to ensure that those responsible for crimes are held accountable, particularly as many suspects are no longer present in the territory where they are alleged to have committed the crimes and cannot be extradited to the territorial State for prosecution. During the reporting period, the Office of the Prosecutor grew increasingly concerned that the positive trend in regional cooperation is reversing.

29. The challenges are both political and technical. Prosecutors in the region have demonstrated their professional commitment to effective cooperation. Yet it is clear that political tensions between countries and nationalist pressures domestically, both related to the legacies of the conflicts, are not conducive to regional cooperation in war crimes cases. This is particularly evident in cases that are contentious or notorious. The challenge is magnified by the fact that the current regime for regional judicial cooperation is primarily voluntary in nature. In the absence of recognized, binding obligations to cooperate with regional counterparts, national prosecution offices often find that cooperation is viewed as a political, rather than strictly judicial, matter.

30. The increasingly difficult political environment has further highlighted and exacerbated known technical challenges in regional cooperation. National prosecutors have achieved positive results in transferring case files to other jurisdictions for prosecution, particularly with respect to low-level direct perpetrators. Yet the protocols that have been put in place do not address significant questions, which can only be tackled with strong political will and support. Countries continue to issue or maintain unknown numbers of international arrest warrants, without necessarily informing the country of nationality or prosecutorial counterparts. Contentious extradition litigation in third States, as seen on a number of occasions in the past year, is a failure of cooperation. Equally, there is not yet a

formal framework to identify strategic priorities for war crimes prosecutions at the regional level and govern the allocation of cases between jurisdictions. Without the confidence that relevant suspects will be prosecuted in another country, each country feels compelled to take unilateral steps to prosecute those cases of highest domestic concern, such as where the victims are nationals. As more countries in the region progress in the European Union accession process, undertake European legal obligations and implement European practices, the status quo will become increasingly unsustainable.

31. The current challenges facing regional cooperation are not unique, nor are they insoluble. The Rules of the Road programme in Bosnia and Herzegovina, established under the Rome Agreement of 18 February 1996, was designed to address similar challenges. The meetings held in Brijuni, Croatia, and the "Palić process" have proved invaluable for national prosecutors to promote regional cooperation and can serve as models for even deeper coordination. Regional cooperation has significantly advanced over the past decade through the dedicated efforts of judicial officials. Political will and support are now needed to make accountability a regional issue and advance solutions to current challenges.

2. Challenges in Bosnia and Herzegovina

32. During his visit to Sarajevo in May 2016, the Prosecutor and staff met with the President of the Court of Bosnia and Herzegovina and representatives of the Prosecutor's Office of Bosnia and Herzegovina. Staff of the Office of the Prosecutor of the Tribunal also met with counterparts in the Prosecutor's Office of Bosnia and Herzegovina in March 2016 to discuss the status of war crimes cases. The Office continued to monitor the processing of war crimes cases, particularly the Category II cases, throughout the reporting period.

33. As previously reported, the Prosecutor's Office of Bosnia and Herzegovina has taken prosecutorial decisions in all but one outstanding Category II case. Indictments have been confirmed in those cases, and trial proceedings are under way. This important development demonstrates the value of the Office of the Prosecutor's continued support to and engagement with national prosecutors, as well as the positive results that national judiciaries can achieve in the prosecution of complex cases involving senior- and mid-level suspects. The Office has offered its continued assistance to the Prosecutor's Office of Bosnia and Herzegovina in prosecuting these and other cases, and notes with satisfaction the continued cooperation and exchanges of evidence between the two offices, including the visit by a Bosnian prosecutor in April to search the databases of the Office and liaise with staff that have extensive experience in related cases.

34. The Office of the Prosecutor of the Tribunal has encouraged the Prosecutor's Office of Bosnia and Herzegovina to ensure that its staff and resources are appropriately deployed to and efficiently utilized for the most complex and highest-priority cases. While recognizing the appropriate deployment of resources to the Category II cases, it must also be noted that the Prosecutor's Office of Bosnia and Herzegovina continues to file significant numbers of indictments in less complex cases. According to the National War Crimes Strategy, such cases should instead be prosecuted at the entity level. From October 2015 to May 2016, the Prosecutor's Office of Bosnia and Herzegovina filed 48 new indictments in war crimes cases, of which 39 were confirmed. Approximately 33 per cent of the confirmed indictments

concerned the most complex and highest priority cases, as identified in the National War Crimes Strategy. This continues a trend that has been evident and reported by the Office of the Prosecutor over the past few years. In addition, judicial authorities at the entity, cantonal and district levels have reported a range of concerns regarding cooperation with the Prosecutor's Office of Bosnia and Herzegovina. The Office of the Prosecutor encourages the Prosecutor's Office of Bosnia and Herzegovina to devote its attention to the most complex and highest-priority cases, which it alone has the jurisdiction, resources and expertise to prosecute.

35. Following the failure to achieve the deadlines established in the National War Crimes Strategy, the process of revising and updating the Strategy is now under way. In addition to establishing new deadlines to process the large backlog of outstanding cases, it will be important that the revised Strategy incorporates lessons learned to date in the processing of war crimes cases in Bosnia and Herzegovina, and addresses the key challenges identified to more comprehensive accountability. Issues that may benefit from further consideration include performance assessment methods for prosecutors, improved cooperation between State- and entity-level prosecution offices, charging practices for crimes against humanity and the implementation of strategic approaches to the investigation and prosecution of crimes. The Office of the Prosecutor stands ready to assist in discussions regarding the new Strategy, and will continue to closely monitor progress in war crimes prosecutions in Bosnia and Herzegovina.

3. Challenges in Croatia

36. During his visit to Zagreb in April 2016, the Prosecutor and staff met with the Minister of Foreign Affairs, the Minister of Justice and the State Attorney.

37. The primary topic of discussion was the cooperation of Croatian authorities with their regional counterparts in the prosecution of war crimes cases. As previously reported, the Prosecutor's Office of Bosnia and Herzegovina has sought cooperation from Croatian authorities in processing a number of Category II case files. In the course of transferring the relevant case files to Croatian judicial authorities, a number of challenges have arisen.

38. In his meeting with the Prosecutor, the Croatian Minister of Justice confirmed that one case from Bosnia and Herzegovina had been pending in his Ministry for more than one year without resolution, as a result of a policy of the Government of Croatia, including the decision adopted by the Government on 3 June 2015. This decision instructed Croatian authorities not to provide cooperation to foreign judiciaries in certain war crimes cases, namely those in which the indictment alleges that members of Croatian civilian and military bodies participated in a joint criminal enterprise to commit international crimes, or that the Croatian military participated in widespread and systematic attacks against civilian populations.

39. The Office of the Prosecutor urges the Croatian authorities to promptly review its policy, as this political decision is hindering the urgently needed progress in regional cooperation and the processing of Category II case files. The Office also encourages the Minister of Justice of Bosnia and Herzegovina to engage with his Croatian counterpart to ensure that Category II case files and other cases transferred from Bosnia and Herzegovina are appropriately processed. The Office will continue to monitor the status of this situation.

40. The Prosecutor also discussed with the State Attorney the status of two Category II cases that have been pending for some time between the Bosnian and Croatian judiciaries. In these discussions, the lack of progress was largely attributed to miscommunication and disagreements between Bosnian and Croatian prosecutors on technical matters, in particular the sufficiency and quality of the available evidence. The State Attorney recognized the importance of Category II cases, confirmed the willingness of his office to further investigate these cases and emphasized that war crime prosecutions were a top priority for his office. The Office of the Prosecutor will support future discussions between Bosnian and Croatian prosecutors in order to assist with finding solutions to help move these cases forward.

41. The Office of the Prosecutor welcomes the commitment of Bosnian and Croatian judicial authorities to cooperate in the prosecution of war crimes, both with respect to the Category II cases and more generally. This will be an important test for regional cooperation and the rule of law. The Office will continue to monitor developments and hopes to be able to report significant progress in the future.

4. Challenges in Serbia

42. During the reporting period, the Office of the Prosecutor's field office in Belgrade continued to regularly engage with judicial and governmental officials on relevant issues.

43. As previously noted, war crimes prosecutions in Serbia are at a crucial crossroads. Serbian judicial authorities must process a large number of war crimes cases that will predominately, but not exclusively, involve Serbian nationals suspected of committing crimes against nationals of other States. It is important to recognize the achievements of the Serbian War Crimes Prosecutor's Office's to date, which could not have been foreseen a decade ago. At the same time, many more cases remain to be investigated and prosecuted in Serbia against Serbian nationals, and there have not yet been sufficient prosecutions involving senior- and mid-level accused. Events during the reporting period demonstrated the uneven progress of war crimes prosecutions in Serbia and the serious challenges that must be overcome.

44. On 20 February 2016, the Government of Serbia adopted the National Strategy for the Prosecution of War Crimes for the Period 2016-2020. The Strategy expresses the commitment of the Government to accountability for war crimes, regardless of the nationality, ethnicity, religion or status of the perpetrator or victim. The Strategy further establishes important goals that should significantly improve the efficiency of war crimes justice in Serbia, including supporting the judiciary and improving societal acceptance of prosecuting war crimes. The successful implementation of the Strategy will now depend, in part, on the Government providing sufficient administrative, financial and political support to relevant judicial bodies, including the Serbian War Crimes Prosecutor's Office and the Service for Investigations of War Crimes at the Ministry of Interior. The Office of the Prosecutor also notes with satisfaction the filing of four indictments as a result of cooperation between Bosnian and Serbian judicial authorities.

45. Conversely, as mentioned earlier in the report and as reported by the President of the Tribunal to the Security Council in October 2015, Serbia has failed to cooperate with the Tribunal by arresting three indictees for whom arrest warrants were issued in January 2015. In addition, there were a number of concerning

developments during the reporting period. Most pressing has been the failure of the Government of Serbia to secure the appointment of a new Chief War Crimes Prosecutor by the December 2015 deadline. As it was known for at least a year that the former Chief Prosecutor would retire, it is difficult to understand how the appointment process for his successor could not be finalized on time. Moreover, the competition to identify a successor raised a number of concerns, with observers questioning how inexperienced candidates were rated more highly than proven candidates with decades of prosecutorial experience. The consequences for the Serbian War Crimes Prosecutor's Office and the war crimes justice process have been serious, as the War Crimes Prosecutor's Office has been without a formally appointed leader for more than five months during a critical period. The Office of the Prosecutor fully expects that the repeat of the second recruitment process will be conducted transparently according to professional criteria and will result in the appointment of a candidate with undisputed experience and an unimpeachable reputation.

46. Unfortunately, the *Djukić* case, raised in the previous three reports, also remains unresolved as at the end of the reporting period. Novak Djukić was convicted and sentenced by the State Court of Bosnia and Herzegovina to 20 years of imprisonment for the so-called Tuzla Gate Massacre, in which 71 civilians were murdered and 240 wounded. He subsequently fled to Serbia. In November 2015, Serbian authorities received the request from Bosnia and Herzegovina to enforce Djukić's sentence. Since then, court proceedings on this request have been adjourned twice owing to the non-attendance of the convicted person. Djukić's sentence should be enforced as soon as possible. The Office of the Prosecutor will continue to monitor the situation and engage as appropriate with national authorities in Bosnia and Herzegovina and Serbia to help move this matter forward.

47. The participation of persons convicted by the Tribunal in election campaigns during the reporting period indicated the scale of the challenges facing war crimes justice and reconciliation in Serbia. Convicted persons appeared at campaign events for some political parties, while another person convicted by the Tribunal appeared on Serbian public television in support of the party in which he is a senior official. Serbian political parties seeking electoral advantage through the support of convicted war criminals raises legitimate concerns about the strength of the commitment of Serbia to war crimes justice and reconciliation. The newly elected Government will now have the opportunity to concretely demonstrate that it accepts the facts established in the judgments of the Tribunal and the kind of policies that it will promote in the future.

B. Support from the Office of the Prosecutor of the Tribunal to prosecutions of regional war crimes

48. The Office of the Prosecutor continues to assist countries in the former Yugoslavia to more successfully handle their remaining war crimes cases.

1. Access to information and evidence

49. During the reporting period, the Office of the Prosecutor continued to provide information and evidence to national jurisdictions investigating and prosecuting crimes arising out of the conflicts in the former Yugoslavia. Information on these activities is provided in the report of the Office of the Prosecutor of the Mechanism.

2. European Union/International Tribunal for the Former Yugoslavia project

50. The joint European Union/International Tribunal for the Former Yugoslavia Training Project for National Prosecutors and Young Professionals from the former Yugoslavia continues to be a central component of the strategy of the Office of the Prosecutor to strengthen the capacity of national criminal justice systems in the former Yugoslavia for war crimes cases. The presence of liaison prosecutors facilitates contacts between the trial teams of the Office and the regional judicial authorities. This is of utmost importance for the ongoing trial and appeals cases of the Tribunal, as well as for the cases that are prosecuted at the local level. Another part of the project, which terminated at the end of 2015, involved bringing young legal professionals from the former Yugoslavia with a commitment to prosecute war crimes cases to work as interns with the Office in The Hague. The Office is grateful to the European Union for supporting this important project and recognizing the need to build capacity by educating and training young lawyers from the region. The European Union and the Office have agreed to continue the liaison prosecutors component of the project until the end of 2016. The Office expects to shortly commence discussions with the European Union to transition and extend the project with the Office of the Prosecutor of the Mechanism.

51. The Office of the Prosecutor strongly encourages national judiciaries to recognize and take full advantage of the valuable skills and expertise developed by participants in the project. Liaison prosecutors returning to their home offices may be well placed to undertake demanding assignments and assume leadership roles in their institutions. Likewise, young professionals should be seriously considered for positions as legal officers and prosecutors in the light of the unique experience and advanced knowledge gained during their internships. The Office has begun monitoring the career progression of former participants and will provide reports to national authorities, as appropriate.

3. Regional training

52. Within existing resources, the Office of the Prosecutor has long supported capacity-building efforts in regional justice sectors by providing training to its regional counterparts on a range of issues. In the reporting period, the Office continued to participate as requested in training programmes for personnel working on war crimes cases.

53. As previously reported, the Office of the Prosecutor prepared and circulated its report assessing the training needs of Bosnian personnel working on war crimes cases. The Office encourages donors and training providers to give serious consideration to the recommendations made in the training needs assessment report of the Office, as reinforced by recent discussions between the Office and stakeholders.

C. The search for missing persons

54. In the Prosecutor's meetings with victims' associations, the lack of information concerning missing family members continues to be consistently identified as one of the most important outstanding issues. The search for and exhumation of mass graves and the subsequent identification of the remains need to be accelerated, as it is essential for surviving family members and fundamental to

reconciliation in the former Yugoslavia. Victims from all sides of the conflict must be identified.

55. The Prosecutor used the occasion of the *Karadžić* judgment to bring attention to the need for continued efforts in the search for missing persons, calling upon all States to continue supporting the process. Throughout the reporting period the Sarajevo Field Office directly supported Bosnian authorities responsible for missing persons. The Office of the Prosecutor also hosted visits by staff of an international organization who sought access to evidence and expertise to support their efforts in finding persons missing from the conflict in Kosovo. Finally, the Office has commenced discussions with national counterparts in Bosnia and Herzegovina regarding a public information campaign to encourage those who have information about mass graves to come forward. As previously reported, the Office believes that a key challenge is the current sociopolitical environment that glorifies war criminals. The Office of the Prosecutor will continue to work with counterparts to identify strategies to overcome this challenge.

56. Bosnia and Herzegovina, Croatia, Montenegro and Serbia have undertaken commitments to assume additional responsibilities in the investigation and identification of persons who went missing during the conflicts. The Office of the Prosecutor encourages these authorities to ensure that their commitments are translated into concrete activities and results.

D. Compensation for victims

57. The Office of the Prosecutor encourages its national counterparts to actively work within the existing legal frameworks to incorporate compensation claims into criminal trial proceedings where possible. Procedures should be streamlined to assist war crimes victims in obtaining redress and to discourage the imposition of unnecessary burdens upon the victims, such as by requiring them to bring separate civil compensation proceedings. The Office also strongly encourages the adoption of operational guidelines for prosecutors to improve consistency of approach across prosecution offices. This, in turn, would ensure better outcomes for victims, and increase their confidence in the rule of law.

E. Global capacity-building

58. In addition to its work in the former Yugoslavia, the Office of the Prosecutor has increasingly been called upon to engage with national criminal justice sectors around the world that are developing their capacity to prosecute war crimes or complex crimes in challenging environments. The Office aims to ensure that the lessons learned from its work and the best practices that have been developed for international prosecutions are widely shared with national counterparts working across a range of criminal justice issues. Within the limits of its operational capacity, the Office will continue to engage with training providers and donors working in regions outside the former Yugoslavia to ensure that appropriate practical training in investigative and prosecutorial techniques is made available.

59. On 31 May 2016, the Office of the Prosecutor will launch its book on the prosecution of conflict-related sexual violence crimes over the course of the Tribunal's mandate. This publication thoroughly documents and analyses the work

of the Office and the Tribunal's jurisprudence on these crimes. Prepared with a capacity-building focus, the Office's book will be an important tool for practitioners. The Office is also in the process of developing training materials for teaching the key insights and messages from the book. The Office of the Prosecutor would welcome discussions with Member States who would be interested in supporting the dissemination of the lessons learned by the Office and raising awareness of the critical need to improve the investigation and prosecution of conflict-related sexual violence crimes.

60. Other legacy-related papers are also in progress at the time of the writing of the present report, covering topics including practical aspects of prosecuting superior responsibility and leadership cases and other topics relevant to investigating and prosecuting complex crimes. As those experiences are potentially relevant to other judicial accountability mechanisms confronted with similar challenges, the Office of the Prosecutor hopes to make publicly available a number of the legacy papers to the extent compatible with operational requirements for completion of the remaining trials and appeals.

V. Downsizing

A. Downsizing of posts of the Office of the Prosecutor and provision of career transition support to staff of the Office

61. At the beginning of 2016, the Office of the Prosecutor had a total of 81 staff members. The Office will continue to downsize posts based on the completion of relevant phases of the trial and appeal proceedings. Delays in the completion of proceedings have not impacted the downsizing of the Office, as it has been able to absorb the additional requirements within existing resources and continue its downsizing on schedule.

62. The Office is actively supporting measures to assist staff in making the transition from their work at the Tribunal to the next step in their careers. The Office of the Prosecutor continues to support training for its staff members and to assist staff to take advantage of the services offered by the Career Transition Office. In relation to this development, the Office is facilitating networking and other opportunities to assist its staff members, including opportunities for its staff members to become qualified for various United Nations standby rosters and to work for short periods with other United Nations bodies on issues in respect of which they have valuable expertise. Given the difficulties of releasing staff members for lengthy periods, the Office is seeking to identify short-term opportunities for staff members on discrete assignments that can be accommodated in the light of the operational requirements of the Office.

B. Supporting and sharing resources with the International Residual Mechanism for Criminal Tribunals (Hague Branch)

63. The resource-sharing by the Office of the Prosecutor of the Tribunal with the Office of the Prosecutor of the Mechanism significantly increased during the reporting period, with the implementation of the "one office" approach to integrate the staff and resources of the two Offices. Under this policy, all Prosecution staff

will now be available to "double-hat" so that they can be flexibly assigned to either Tribunal- or Mechanism-related work depending on operational requirements and their case-related knowledge. Resources of both Offices will also be flexibly deployed where needed.

64. For the Office of the Prosecutor of the Tribunal, which is continuing its downsizing, the primary impact of the "one office" approach will be to ensure that staff and resources can be made available at no additional cost to address unforeseen developments in Tribunal cases and to ameliorate the pressing problem of staff attrition in the final phase of the Tribunal. These are important measures to help to ensure the successful implementation of the completion strategy. Prosecution staff of the Tribunal will also now have the opportunity to participate in the work of the Mechanism, even while they remain on their post at the Tribunal. It is hoped that this will help to promote the retention of staff until their posts are downsized, a long-standing challenge.

VI. Conclusion

65. The reporting period saw important progress towards the implementation of the completion strategy, with the finalization of two trials and one appeal. The Office of the Prosecutor remains firmly focused on expeditiously completing the remaining trials and appeals, while simultaneously reducing its resources and downsizing its staff. The Office will continue to take measures within its control to reduce the time necessary to complete the remaining trials and appeals, while continuing to allocate resources flexibly and to effectively manage staff attrition and downsizing.

66. By failing to execute arrest warrants and transfer three indictees to the Tribunal's custody, Serbia is not in compliance with its international obligations to cooperate with the Tribunal. The Office of the Prosecutor hopes that this situation is urgently resolved so that Serbia can return to the status of full cooperation.

67. Significant challenges remain with respect to national prosecutions of war crimes in the former Yugoslavia. Positive results have been achieved, but more expeditious progress is needed in the light of the scale and importance of the work to be completed. The Office will continue to engage with counterparts and support improvement in the national processing of war crimes. The Office will also continue to encourage improved regional cooperation on matters involving war crimes and will closely monitor developments.

68. In all of these endeavours, the Office of the Prosecutor relies upon the support of the international community and especially of the United Nations Security Council.

Enclosure I

A. Trial judgments 17 November 2015-17 May 2016 (by individual)

Name	*Former title*	*Initial appearance*	*Trial judgment*
Radovan Karadžić	President, Republika Srpska	31 July 2008	24 March 2016
Vojislav Šešelj	President, Serbian Radical Party	26 February 2003	31 March 2016

B. Appeal judgments 17 November 2015-17 May 2016 (by individual)

Name	*Former title*	*Appeal judgment*
Jovica Stanišić	Head, State Security Services, Republic of Serbia	15 December 2015
Franko Simatović	Commander, Special Operations Unit, State Security Services, Republic of Serbia	15 December 2015

Enclosure II

A. Persons on trial as at 17 May 2016 (by individual)

Name	*Former title*	*Initial appearance*	*Start of trial*
Ratko Mladić	Commander of the Bosnian Serb Army Main Staff	3 June 2011	Trial commenced on 16 May 2012
Goran Hadžić	President, Serbian Autonomous District Slavonia, Baranja and Western Srem	25 July 2011	Trial commenced on 16 October 2012

B. Persons on appeal as at 17 May 2016 (by individual)

Name	*Former title*	*Date of trial judgment*
Mićo Stanišić	Minister, Internal Affairs, Republika Srpska	27 March 2013
Stojan Župljanin	Chief of the Serb-Operated Regional Security Services Centre, Banja Luka	27 March 2013
Jadranko Prlić	President, Croatian Republic of Herceg-Bosna	29 May 2013
Bruno Stojić	Head of Department of Defence, Croatian Republic of Herceg-Bosna	29 May 2013
Milivoj Petković	Deputy Overall Commander, Croatian Defence Council	29 May 2013
Valentin Ćorić	Chief of Military Police Administration, Croatian Defence Council	29 May 2013
Berislav Pušić	Control Officer, Department of Criminal Investigations, Military Police Administration, Croatian Defence Council	29 May 2013
Slobodan Praljak	Assistant Minister of Defence of Croatia and Commander of the Croatian Defence Council Main Staff	29 May 2013

C. Trial judgments for contempt 17 November 2015 to 17 May 2016 (by individual)

Name	*Former title*	*Date of (order in lieu of) indictment*	*Trial judgment*
None			

D. Appeal judgments for contempt 17 November 2015 to 17 May 2016 (by individual)

Name	*Former title*	*Date of trial contempt judgment*	*Appeal judgment*
None			

Enclosure III

Proceedings completed during the period 17 November 2015 to 17 May 2016

A. Trial judgments rendered in the period 17 November 2015 to 17 May 2016

1. Radovan Karadžić IT-95-5/18 (24 March 2016)
2. Vojislav Šešelj IT-03-67 (31 March 2016)

B. Contempt judgments rendered in the period 17 November 2015 to 17 May 2016

None

C. Appeals from judgments rendered in the period 17 November 2015 to 17 May 2016

1. Stanišić and Simatović IT-03-69A (15 December 2015)

D. Appeals from contempt rendered in the period 17 November 2015 to 17 May 2016

None

E. Final interlocutory decisions rendered on appeal in the period 17 November 2015 to 17 May 2016

1. Šešelj IT-03-67-AR65.1 (9 February 2016)
2. Hadžić IT-04-75-AR73.1 (4 March 2016)

F. Review, referral and other appeal decisions rendered in the period 17 November 2015 to 17 May 2016

None

Enclosure IV

Ongoing proceedings as at 17 May 2016

A. Trial judgments pending as at 17 May 2016

1. Mladić IT-09-92-T
2. Hadžić IT-04-75-T

B. Contempt judgment pending as at 17 May 2016

1. Jojić et al. IT-03-67-R77.5

C. Appeals from judgments pending as at 17 May 2016

1. Stanišić and Župljanin IT-08-91-A
2. Prlić et al. IT-04-74-A

D. Appeals from contempt pending as at 17 May 2016

None

E. Interlocutory decisions pending as at 17 May 2016

None

F. Review, referral and other appeal decisions pending as at 17 May 2016

None

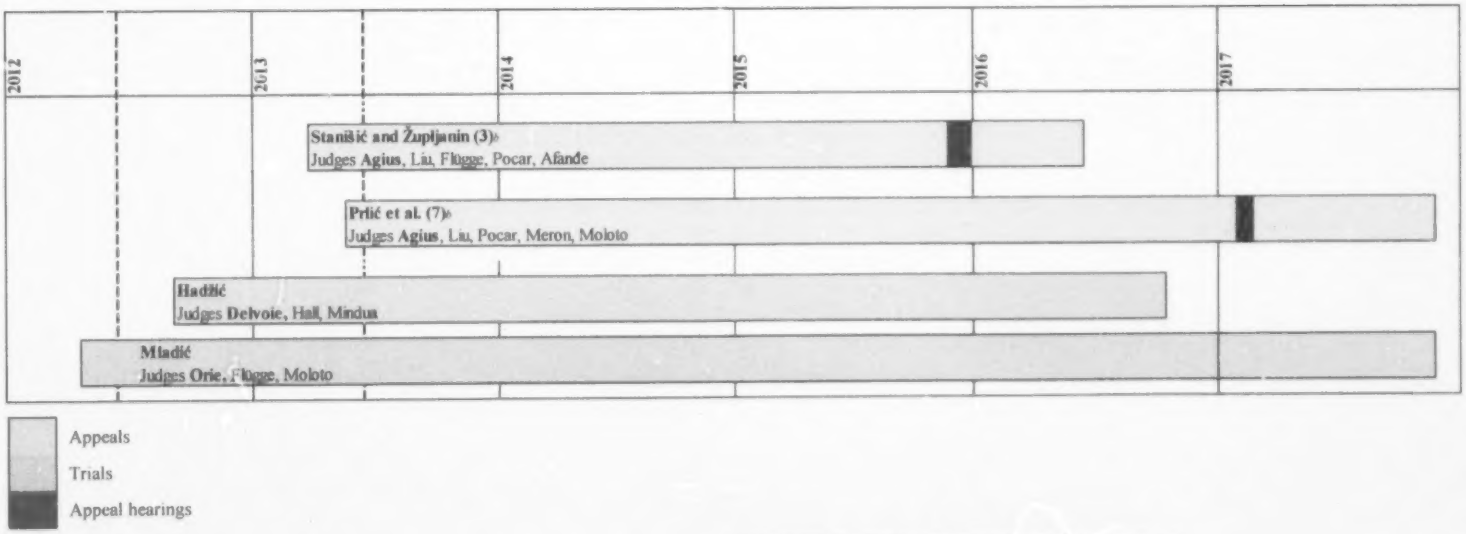
Enclosure V

Decisions and orders rendered during the period 17 November 2015 to 17 May 2016

1. Total number of decisions and orders rendered by the Trial Chambers: 78
2. Total number of decisions and orders rendered by the Appeal Chamber: 22
3. Total number of decisions and orders rendered by the President of the Tribunal: 11

Enclosure VI

Trial and appeals schedule of the International Tribunal for the Former Yugoslavia as at 17 May 2016[a]



[a] Contempt matters are not included.
[b] Number of accused/appellants, including the prosecution.